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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,644	04/16/2004	Lila Shepley	22803-2	2290

7590

07/05/2005

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EXAMINER

ROYAL, PAUL

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/826,644	SHEPLEY, LILA	
	Examiner	Art Unit	
	Paul Royal	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 07/20/04 has been considered by the examiner.

Drawings

2. The drawings were received on 07/15/04. These drawings are approved.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5, and 8, 9, 12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolpa (US 5,992,073).

Wolpa teaches a container contents identification device comprising:

a fastener mechanism (52) configured to extend around an outer perimeter of a container (15);

a tag/label holder (20) coupled to said fastener mechanism and comprising an outer surface and an inner surface, said inner surface defining a cavity (32) within said tag holder (20), said cavity (32) having a circumferential length that is less than the length of said fastener mechanism (52), said cavity (32) sized to receive indicia therein for identifying the container; and

an identification tag (44) sized for insertion into the cavity (32), the identification tag configured to receive indicia for identifying the container (15).

For claims 5 and 12, note Figure 2 shows the tag/label holder (20) is formed integrally with the fastener mechanism (52).

For claims 8 and 15, Wolpa teaches wherein a first end of the fastener mechanism is coupled to a second end of the fastener mechanism by an attachment mechanism such as Velcro™, see column 5, lines 15-23.

For claim 9, note the tag holder (20) has a circumferential length that is shorter than the length of the fastening mechanism (52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4 and claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolpa, as applied to claim 2 and claim 9 respectively, in view of Siegrist (US 6,550,813).

Wolpa, as applied to claim 2 and claim 9 respectively, teaches a container identification device including the claimed limitations except wherein the tag comprises an erasable outer surface of a polypropylene coating.

Siegrist teaches a reusable information tag (20/30) having an erasable outer surface of a polypropylene coating (top layer 44) to provide an information tag in which information can be easily written and erased which allows the tag to be used in a variety of articles.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container identification device of Wolpa, as applied to claim 2 and claim 9 respectively, to include a reusable information tag having an erasable outer surface of a polypropylene coating, as taught by Siegrist to provide an information tag in which information can be easily written and erased which allows the tag to be repeatedly used to identify contents of the container even where the contents change.

5. Claims 6 -7 and claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolpa, as applied to claim 1, in view of Siebe (US 1,761,995).

Wolpa, as applied to claim 1 and claim 9, respectively, teaches a container identification device including the claimed limitations except an attachment mechanism for coupling the tag holder to the fastener mechanism which comprises at least one of a mechanical fastening device, an interlocking device, a hook and pile fastener, a hook and loop fastener, a tab and slot device, a locking mechanism, a magnet, a tying system, and a clip.

Siebe teaches a price tag holder which includes a mechanical fastening device (6,7,8) that secures a frame (1 – where the frame is a tag/label holder) to a length of

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wire (9 – where the wire is adapted to enclose an article) to removably support a price card within the frame on an article of merchandise.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container identification device of Wolpa, as applied to claim 1 and claim 9, respectively, to include a mechanical fastening device that secures a frame to a length of wire to removably support a price card within the frame on an article of merchandise.

6. Claims 1-2, 5, and 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Reinsberg (US 3,586,220).

Reinsberg teaches a strip fastener comprising:

a strip fastener mechanism (22) configured to extend for a length around an outer perimeter of an article;

a tag/label holder (10) integrally coupled to the fastener mechanism and comprising an outer surface (11) and an inner surface (12), said inner surface defining a cavity, within the tag holder (10), said cavity having a circumferential length that is less than the length of said fastener mechanism (22), said cavity sized to receive indicia (note the indicia is not shown but is disclosed in column 4, lines 3-14) therein for identifying the container, see also column 4, lines 10-24; and

an interlocking device (17 and 18) which couples the ends of the strip fastener together.

Reinsberg does not show a container identification system including an identification tag.

The strip fastener of Reinsberg, while not disclosed as a container identification system, presents that the invention may be used to attach to identify subject matter used for a variety of purposes, see column 4, lines 3-9, provides the structural components to be attached to an article such as a container, and provides an information sheet to identify contents of an article such as a container. Specifically Reinsberg teaches the strip fastener mechanism (22) is configured to extend for a length around an outer perimeter of an article and the holder is adapted for insertion of an information sheet identifying the article held.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the strip fastener of Reinsberg to identify the contents of a container to provide the container with an identifying fastener that adjusts in size and is therefore capable of use and reuse on a variety of different size containers.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Snypp teaches a label holding device for bottles. Osburn teaches a price card holder. Baumgartner teaches an identification band. Tuskiewicz teaches a paper label.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Royal
Examiner
Art Unit 3611

P. Royal
6/26/2005



JOANNE SILBERMANN
PRIMARY EXAMINER